

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Complaint No. 01-92 (Revised
)	December 21, 2001) for
Centex Homes)	Administrative Civil Liability
7555 Irvine Center Dr., Suite 100)	
Irvine, CA 92618)	
)	
Attn: Rick Wood)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Centex Homes is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385(c)(2) of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter will be scheduled for the Board's regular meeting on December 7, 2001 at the City Council Chambers of Loma Linda, 25541 Barton Road, Loma Linda, California. Centex Homes or its representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The storm water runoff from the Centex Homes construction site named St. John Heights, located at Serrano Heights in the City of Orange (site), is regulated under the State's General Permit for Storm Water Runoff Associated with Construction Activities, Order No. 99-08-DWQ, NPDES No. CAS000002 (General Permit), WDID No. 830S313739.
5. Centex Homes is alleged to have violated Provisions A.2, B.1, and B.2 of the General Permit. Provision A. 2 states, "Discharges of material other than storm water which are not otherwise authorized by an NPDES permit to a separate storm sewer system (MS4) or waters of the nation are prohibited, except as allowed in Special Provisions for Construction Activity, C. 3." Provision B. 1 states, "Storm water discharges and authorized nonstorm water discharges to any surface or ground water shall not adversely impact human health or the environment." Provision B.2 states, "The SWPPP developed for the construction activity covered by this General Permit shall be designed and implemented such that storm water discharges and authorized nonstorm water

discharges shall not cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan and/or the applicable RWQCB's Basin Plan." Centex Homes allowed discharges of non-storm water, which caused or threatened to cause pollution, contamination, or nuisance. Centex Homes failed to implement appropriate Best Management Practices (BMPs) for the elimination or reduction of pollutants. Appropriate monitoring of the BMPs during the discharge was not performed, and Centex Homes discharged pollutants to waters of the United States from the construction site. Pursuant to Water Code Section 13385(a)(2), civil liability may be imposed for the preceding violations.

6. This complaint is based on the following facts:

- a) According to the site's Notice of Intent, construction commenced on July 5, 2000 on 15.4 acres and was to be completed on August 15, 2001.
- b) On July 27, 2001, Regional Board staff (staff) conducted a routine inspection of the site and determined that a non-storm water discharge had occurred without adequate BMP implementation. Upon arrival at the site, staff observed wash water in the street and flowing in the gutter. Staff contacted the site superintendent who stated that three truck loads of approximately 2,200 gallons each were used to flush the streets at the project site.
- c) During the inspection, staff noted that no street sweeping or other BMPs were implemented prior to the flushing to reduce the pollutant load in the resulting runoff. Staff further observed that sandbags at the downgradient catchbasin inlets had been removed, allowing the sediment and debris laden runoff to directly enter the storm drain system.
- d) John Holder, the site superintendent, was told to cease the unauthorized, non-storm water discharges immediately. Mr. Holder told staff that he had checked the BMPs earlier in the week, and did not know who had moved the sandbags. Mr. Rusty Therman, the wash truck operator, was also questioned, but he also did not know who had moved the sandbags.
- e) The local storm drain system for the site discharges into Santiago Oaks Regional Park, which drains to Santiago Creek. Park trails in this area reportedly have been washed out, or buried under sediment, several times since the beginning of construction on the Serrano Heights development, of which the site is a part.

7. Section 13385(a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. Additional liability, not to exceed \$10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons. The estimated flow from the site, 6,600 gallons, is based on three truckloads

discharged from a 2200-gallon capacity water truck, which commingled with sediment and/or other pollutants.

8. Pursuant to Section 13385(c), Centex Homes is civilly liable for the sum of \$66,000 (\$10,000 for one day of discharge and additional liability of \$56,000 for 5,600 gallons at \$10 per gallon). This occurred without adequate or properly maintained BMPs implemented to eliminate/reduce the discharge of sediment-laden water. The total maximum assessment is \$66,000 for the violations cited in Paragraph 5, above.
9. Regional Board staff spent a total of 4 hours investigating this incident (@\$70 per hour, the total cost for staff time is \$280). Centex Homes saved approximately \$3,000 by not developing, implementing, and maintaining adequate erosion and sediment control BMPs. These factors were considered in assessing the penalty indicated in Paragraph 10, below.
10. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes civil liability be imposed on Centex Homes by the Board in the amount of \$15,000 for the violations cited above.

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed in Paragraph 10, above, to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

If you have any questions, please contact Mark Smythe at (909) 782-4998, or Michael Adackapara at (909) 782-3238, or contact the Regional Board's staff counsel, Jorge Leon, at (916) 341-5180.

Date

Gerard J. Thibeault
Executive Officer

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Irvine, CA 92618)	
Attn: Rick Wood)	

WAIVER OF HEARING

I agree to waive Centex Homes' right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-92 (Revised). I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$5,000. In addition, I have enclosed a second check, made payable to the Santiago Oaks Regional Park, for the Supplemental Environmental Project in the amount of \$10,000. I understand that I am giving up Centex Homes' right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for Centex Homes